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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

WILLIAM F. HOLDNER,

CV 09-979-AC

Petitioner,

OPINION AND ORDER

v.

OREGON DEPARTMENT OF
AGRICULTURE,

Respondent.

REDDEN, Judge:

On November 12, 2009, Magistrate Judge John Acosta filed his Findings and Recommendation (doc. 14) that the court grant Respondent's Motion to Dismiss (doc. 3) for lack of subject matter jurisdiction, and enter an order of judgment dismissing Petitioner's complaint, without prejudice.

The matter is now before me pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rules of Civil Procedure 72(b) and 54(d)(2)(D). The district court is not bound by the recommendations

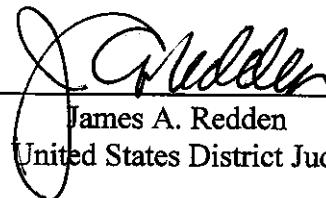
further evidence, or recommit the matter to the magistrate judge with instructions."

28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). When either party timely objects to any portion of the magistrate's Findings and Recommendation, the district court must conduct a de novo review of those portions of the magistrate's report. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); McDonnell Douglas Corp. v. Commodore Bus. Machines, 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920 (1982). The district court is not, however, required to review the factual and legal conclusions to which the parties do not object. Thomas v. Arn, 474 U.S. 140, 149 (1985); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003).

Petitioner timely filed objections to Magistrate Judge Acosta's Findings and Recommendation. I have, therefore, given those portions of the Findings and Recommendation a de novo review. I agree with Magistrate Judge Acosta's analysis and conclusion. Accordingly, I ADOPT Magistrate Judge Acosta's Findings and Recommendation (doc. 14), and GRANT the State of Oregon's motion to dismiss the complaint (doc. 3), with leave to refile.

IT IS SO ORDERED.

DATED this 13 day of December, 2009.



James A. Redden
United States District Judge